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Chairman: Mr. Gibbons (Vice-Chairman) ..... (Ireland)

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In the absence of Mr. Wolfe (Jamaica), Mr. Gibbons (Ireland), Vice-Chairman, took the Chair.

The meeting was called to order at 10.15 a.m.

Agenda item 70: Promotion and protection of human rights (*continued*) (A/62/36, 369 and 464)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/62/183, A/62/207, 212, 214, 218, 222, 225, 227, 254, 255, 265, 280, 286, 287, 288, 289, 293, 298, 304, 317; A/C.3/62/3)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/62/213, 223, 263, 264, 275, 313, 318, 354 and 498)

(e) Convention on the Rights of Persons with Disabilities (*continued*) (A/62/230)

1. **Mr. Hunt** (Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health), introducing his report (A/62/214), noted that, regrettably, there was not a single human rights mechanism that focused on the immense problem of preventable maternal deaths, the scale of which dwarfed the numbers of disappearances and other violations of the right to life. Since he had raised that issue at the sixty-first session, the United Nations Population Fund (UNFPA), the European Union and the University of Essex had produced a publication focusing on maternal mortality from a right-to-health perspective. "Women Deliver", the high-level global conference on maternal health held recently in London, had seen the launch of a new international initiative on maternal mortality and human rights. Driven by civil society, that initiative aimed to use human rights to reinforce existing efforts to reduce maternal mortality and to promote functioning health systems. It also aimed to encourage maternal health workers to use human rights analysis, advocacy and networks to further their goals. It was a challenge to both developed and developing countries. Not only did developed countries often have higher maternal mortality rates among their minorities and indigenous communities, but they had a human rights responsibility to take reasonable measures to address maternal mortality in developing countries.

2. The Government of India had invited him to undertake a formal mission to that country in November 2007 to study the practical contribution that the right to health could make in the struggle against preventable maternal deaths. Much more needed to be done, however, to ensure that maternal mortality received the human rights attention it deserved and the Human Rights Council could play a leadership role in that regard. He recommended that the Council should convene a special session on maternal mortality, at which key United Nations agencies could be invited to offer their insights and expertise and States could share their good practices. That would be an opportunity to tell the world that preventable maternal mortality was a very serious human rights issue and that human rights had a practical contribution to make.

3. Unfortunately, there was a tendency among some Governments and international organizations to devote a disproportionate amount of attention and resources to medical care, at the expense of the underlying determinants of health, when both were fundamental, interrelated elements of the right to the highest attainable standard of health. Section IV of his report focused on two such determinants: access to safe water and adequate sanitation. In addition to saving millions of lives and reducing terrible suffering, such access could bring substantial economic benefits. According to the World Health Organization (WHO), each dollar invested would yield an economic return of between $3 and $34, depending on the region. Analysing the issue from the standpoint of the right to the highest attainable standard of health, his report concluded that many States did not have adequate water and sanitation policies, programmes and laws and had yet to put in place effective monitoring and accountability mechanisms in relation to water and sanitation. Measures to enhance access to safe water and sanitation must give particular attention to disadvantaged groups and individuals and must also be gender-sensitive. Large-scale public awareness health campaigns were needed to provide information on hygiene and safe water storage.

4. Global warming had led to a decline in dependable access to water, the disruption of natural ecosystems and an increase in the population of tropical disease vectors. As clean water sources evaporated, people resorted to polluted alternatives that led to ill health. Poor people were disproportionately affected. The international community had a duty to

recognize and confront the health threats posed by global warming and he recommended that the Human Rights Council should undertake, as soon as possible, a study on the impact of climate change on human rights, including the right to the highest attainable standard of health.

5. From the right-to-health perspective, an impact assessment methodology was a key feature of a health system. Without it, a Government could not know whether its proposed initiatives were on target progressively to achieve the right to the highest attainable standard of health. A study that he had co-authored on that topic in 2006 was outlined in Section III of his report.

6. The introduction of basic public health measures would significantly reduce the burden of several neglected diseases for which the development of new drugs and vaccines was underfunded. In 2006, he had undertaken a formal mission to Uganda, in cooperation with WHO, to look into the issue. Although the resulting report (E.CN.4/2006/48/Add.2) focused on Uganda, much of its analysis and many of its recommendations were applicable to the many States whose populations suffered from neglected diseases. A study entitled *Neglected Diseases: A Human Rights Analysis*, of which he was a co-author, had recently been published by the United Nations Children's Fund (UNICEF), United Nations Development Programme (UNDP)/World Bank/WHO Special Programme for Research and Training in Tropical Diseases. When read together, that study and his report on Uganda provided a practical introduction to neglected diseases and human rights and showed that the right to the highest attainable standard of health was not mere rhetoric, but a practical tool that could contribute to good policymaking.

7. Following his interactive dialogue with the Committee at the sixty-first session, he had prepared a set of draft human rights guidelines for pharmaceutical companies in relation to access to medicines, which would be available for public comment until 31 December 2007 and which he aimed to finalize in 2008. He was actively canvassing the views of stakeholders, including pharmaceutical companies, on the draft guidelines, which did not proceed on the basis that pharmaceutical companies were legally bound by international human rights law and thus avoided the most controversial doctrinal issues that had plagued debates about business corporations and human rights for many years. Since his appointment in 2002, he had had the opportunity to discuss with pharmaceutical companies the issues that formed the core of the draft guidelines. In a series of substantive meetings with a number of major pharmaceutical companies, he and Ms. Mary Robinson had put forward a two-phase proposal, which had been discussed at length with those companies and revised to accommodate some of their concerns. Under that proposal, a small group of human rights experts would have worked with representatives of pharmaceutical companies to identify common ground as well as good faith disagreements in relation to access to medicines. That would have resulted in a report that could be used to evaluate the policies and practices of certain pharmaceutical companies; such evaluations would then have been made public. While two companies, Novartis and NovoNordisk, had been willing to go along with the proposal, the majority of companies had not. Since the aim had been a collaborative initiative among a range of major pharmaceutical companies, the proposal had had to be shelved. He hoped that the draft guidelines would clarify what could reasonably be expected of pharmaceutical companies in relation to access to medicines and the right to the highest attainable standard of health. He had sole responsibility for the draft and the final version. Since States had primary responsibility for enhancing access to medicines, he hoped, resources permitting, to prepare draft guidelines for States in that regard, in cooperation with treaty bodies and other experts.

8. **Mr. Alakhder** (Libyan Arab Jamahiriya) asked whether the draft human rights guidelines for pharmaceutical companies would be legally binding in terms of access to medicines and why most pharmaceutical companies had been unwilling to go along with the proposed collaborative initiative.

9. **Mr. Moreira** (Brazil) asked how States could contribute to the drafting of the guidelines and how human rights could contribute to good policymaking in the area of neglected diseases, which was a major issue for developing countries.

10. **Ms. Tavares da Silva** (Portugal), speaking on behalf of the European Union, asked the Special Rapporteur whether he believed that treaty monitoring bodies were in a position to provide guidance to States on the prioritization of health interventions and respect for human rights and, if so, how they should do so. In a case such as *Soobramoney vs. Minister of Health*,

examined by the Constitutional Court of South Africa and mentioned in the Special Rapporteur's report, was it not highly likely that any assessment by a treaty body would be necessarily vague on such a delicate matter? Lastly, she would like to know how Governments could be encouraged to follow a rights-based approach to impact assessments and policymaking in relation to the right to the highest attainable standard of health.

11. **Ms. Pérez Álvarez** (Cuba) asked the Special Rapporteur to clarify the statement in his report that donor countries should ensure that their policies and programmes accorded with the national priorities of recipient countries. Did that mean that donor countries should support access to patent-protected medicines for recipient countries?

12. **Ms. Sutikno** (Indonesia) said that the integration of the right to health into national and international policymaking required further discussion, since there was no one-size-fits-all solution. She asked whether there were plans to distribute and discuss the Special Rapporteur's report on impact assessments more widely, not only at expert level but also through an intergovernmental process. She wondered how it was possible to ensure that human rights impact assessments were sensitive to cultural and religious values and practices and to countries' level of development.

13. **Mr. Hunt** (Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health), responding to the Libyan representative, said that the finalized guidelines would not be legally binding, although, he hoped that they would be persuasive, would have sufficient credibility to be influential and would be useful to pharmaceutical companies, States and international organizations in formulating programmes and policies that respected the right to health. With regard to pharmaceutical companies' unwillingness to support the initiative proposed by himself and Ms. Robinson, he could not speak for those companies but stressed that he and Ms. Robinson had worked hard to frame a constructive, collaborative proposal that took account of companies' concerns. Those companies must not exercise a de facto power of veto over such initiatives and, if they could not be carried out collaboratively, other solutions must be found.

14. Responding to the representative of Brazil, he said that States had an important role to play in the drafting of the guidelines. In that connection, he expressed appreciation to the delegation of Brazil for having proposed the holding of lunchtime consultations and encouraged other States to follow suit. If, as he anticipated, the pharmaceutical sector did not welcome the draft guidelines, States would have to signal their broad political support if they wanted the drafting of the guidelines to be pursued. With regard to neglected diseases, he noted that his 2006 report on Uganda had relevance for all countries affected by such diseases. Together with *Neglected Diseases: A Human Rights Analysis*, that report showed how human rights could contribute to good policymaking on neglected diseases. When the right-to-health analytical framework was used, it provided guidance on appropriate policy initiatives and underscored the importance of effective monitoring and accountability in relation to neglected diseases.

15. Turning to the comments made by the representative of Portugal on behalf of the European Union, he said that more work needed to be done on the prioritization of health interventions and respect for the right to health. He hoped that treaty bodies would look more carefully at the issue than they had done in the past and would provide guidance to Governments in the form of concluding observations, general recommendations and general comments. With regard to *Soobramoney vs. Minister of Health*, he believed that treaty bodies were well equipped to make decisions such as that made by the Constitutional Court of South Africa in that case. He did not see any reason why a treaty body such as the Committee on Economic, Social and Cultural Rights should not weigh such considerations. Right-to-health impact assessments were extremely important and States had a duty to reflect on the impact that a proposed policy would have on the right to health before introducing it. There had to be a scientific, objective means of determining the likely impact of a policy on poor people's right to health. Until recently, however, States had not had access to an appropriate methodology.

16. Responding to the representative of Cuba, he said that he hoped that donor and recipient countries alike would support the draft human rights guidelines for pharmaceutical companies in relation to access to medicines. He had been inspired by the work of some donor agencies, such as the United Kingdom's

Department for International Development (DFID), which had produced useful documentation on access to medicines. He concurred with the representative of Indonesia that there was no one-size-fits-all solution. Prioritization required further study and he hoped that States would consider hosting a seminar on that difficult issue. The right to health should be integrated into existing impact assessment methodologies. When designing such assessments, it was important to take local contexts and cultural issues into account.

17. **Ms. Giménez-Jiménez** (Bolivarian Republic of Venezuela) said that her delegation welcomed the draft human rights guidelines for pharmaceutical companies on access to medicines. She would like to hear the Special Rapporteur's views on health insurance companies that excluded persons with disabilities and chronic diseases and to suggest that guidelines for health insurance companies should be drafted.

18. **Mr. Ke** Yousheng (China) said that while States had primary responsibility for ensuring the right to the highest attainable standard of health, they often faced economic or social obstacles to doing so. He would appreciate more information on the role of international cooperation in overcoming those obstacles. He regretted that the proposal for collaboration between human rights experts and representatives of pharmaceutical companies had had to be shelved and asked what could be done to involve those companies and States in a collaborative process.

19. **Ms. Matlhako** (South Africa) said that her delegation had a great interest in the outcome of the negotiations on the draft guidelines and looked forward to working with the Special Representative in the Human Rights Council.

20. **Mr. Hunt** (Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health) said that he did not intend to draft guidelines for health insurance companies, although he noted the proposal with interest. Concerning international assistance and cooperation, he said that developing countries faced many obstacles to ensuring the attainment of the right to health. Donor countries' responsibilities in that area were considerable, as almost all his reports showed. He shared China's regret at the shelving of the proposal for cooperation with pharmaceutical companies, but was actively seeking input from those companies to future discussions on the draft guidelines and hoped that States would also be closely involved in that process.

21. **Mr. Ziegler** (Special Rapporteur on the right to food), introducing his report (A/62/289), defined the right to food as the right to have regular, permanent and unrestricted access to adequate and sufficient food that corresponded to cultural traditions and ensured a fulfilling and dignified life. That right was increasingly denied to millions of people and thousands died of hunger every day, yet the world produced enough to feed everyone.

22. Every year, millions of people attempting to escape hunger tried to enter the European Union. Although there were no precise data on the number of people drowned, thousands were believed to have disappeared each month while seeking to reach the Canary Islands from Mauritania or Senegal or to cross the Straits of Gibraltar from Morocco. Tens of thousands of African migrants had reached Spain, Greece, Italy and Malta in recent years. However, those who succeeded in reaching European territory had no legal protection, as the Convention relating to the Status of Refugees limited the obligation of States to providing international protection to those whose life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion if they returned home. Refugees from hunger did not fall into any of those categories, but hunger had increased at a frightening rate in Africa over the past 30 years.

23. He therefore called for recognition of the right of non-refoulement, with temporary protection, for refugees from hunger. Such refugees were in an identifiable state of necessity and should not be considered economic refugees. Just as ambulances were often obliged to exceed speed limits to save lives, refugees from hunger were forced to cross borders unlawfully in order to ensure their survival. General Assembly resolution 60/251 gave the Human Rights Council a mandate to establish new international legal standards, where necessary, and there was a need to establish a human right to temporary non-refoulement. That would enable States to send refugees from hunger back to their countries of origin once the situation in those countries had changed.

24. The European Union's policies towards Africa were hypocritical and cynical. Aided by European export subsidies, it was dumping its agricultural

produce in Africa. The hundreds of billions of euros spent on agricultural subsidies meant that European fruit, vegetables and other produce could be purchased for half the price of their African equivalents, with ruinous consequences for African agriculture, on which a majority of African economies were almost exclusively dependent. It was virtually impossible for African Governments to guarantee a minimum level of subsistence for their farmers. He was especially concerned about the terms of agreements currently being negotiated by the European Union under new economic partnership arrangements with the African, Caribbean and Pacific countries; those terms were tantamount to blackmail. The World Trade Organization (WTO) was forcing the European Union to liberalize its relations with those countries, but efforts must be made to overcome the asymmetrical terms of the Cotonou Agreement .

25. He was also gravely concerned about the increase in biofuel production, which would seriously exacerbate hunger if it continued at current levels. Regardless of the environmental, economic and political gains to be derived from such fuels, the threat posed to food security outweighed the benefits; the very survival of humanity was at stake. Biofuel production had caused the price of maize to rise sharply throughout the world, yet the maize required to produce enough fuel to fill a 50-litre petrol tank was enough to feed a child for an entire year. Thirty-one African countries could not produce enough food to feed themselves and some could no longer afford to import at market prices the thousands of tonnes of food needed to feed their populations. The World Food Programme (WFP) had provided direct food aid to some 91 million people in 2006, of which the United States Government had contributed 62 per cent, but that Government was reportedly halving its contribution for 2007 because of the rise in food crop prices. The sharp increase in food prices meant that tens of thousands more people would die in places such as Darfur and the Horn of Africa. To turn nourishing plants into ethanol under the current circumstances was a crime against humanity and he called for a five-year moratorium on biofuel production to allow time for the adoption of technologies that respected the right to adequate food. Such technologies included the use of agricultural waste and non-food crops for biofuel. One such crop was Jatropha Curcas, a shrub that could be grown in arid regions and was found in, inter alia, India and Brazil. Regardless of the huge economic stakes in biofuel production, the international community must act when the right to food was violated.

26. **Ms. Tavares da Silva** (Portugal), speaking on behalf of the European Union, asked what specific measures could be taken to alleviate the plight of the millions of children currently affected by hunger. She would like to have further details of the important measures adopted by some Governments in that regard, including in the Horn of Africa and Latin America, and to know whether they could be replicated by other States facing similar situations. More information was needed on the ways in which States and corporations could cooperate in preventing the rise in biofuel production from increasing world hunger.

27. **Ms. Pérez Álvarez** (Cuba) requested further details of the positive developments in various countries referred to in the report and more information on the shortage of funding that was preventing WFP from carrying out its programmes, particularly in southern Africa, and on what could be done to ensure that resources went to that region. She would also like to hear more details of the impact of international economic agreements on the right to food.

28. **Ms. Ribeiro Viotti** (Brazil) said that fighting hunger and poverty was one of her Government's national and international priorities. She felt that the Special Rapporteur's report could have dealt at greater length with the direct relationship between trade and the right to food and with the urgent need for completion of the Doha Development Round. The report dealt extensively with the impact of biofuel production on the right to food, but it was difficult to see why the use of a clean, renewable energy source affected that right. The development of such a source could substantially increase the incomes of rural families, thereby improving living standards in rural areas. That had been the case in Brazil, where the cultivation of biofuel crops had proved to be fully compatible with the priority objective of increasing the production of food staples and ensuring food security. Her delegation could provide the relevant evidence and information in that regard.

29. **Mr. Neble** (Burkina Faso) pointed out that cotton subsidies in developed countries had as devastating an impact as food crop subsidies on developing countries such as his own. For some developing countries,

especially those where cotton was the sole agricultural product, cotton subsidies were a catastrophe.

30. **Mr. Akindele** (Nigeria) said that his Government had made progress with regard to food production, particularly through the cultivation of cassava and gari. Some of the cassava produced in Nigeria went into ethanol production, however, and imposing a moratorium on biofuel production would be like administering the same medicine to basically different cases.

31. **Ms. Giménez-Jiménez** (Bolivarian Republic of Venezuela) said that given its policy of actively pursuing food self-sufficiency, her Government completely rejected the idea of growing food crops to produce biofuels. Aside from depriving people of food, such a step would hand over control of land to big industrial corporations and expose consumers to considerable risks. She wondered whether the Special Rapporteur could elaborate on his idea of a binding international legal instrument for protecting people from hunger and ensuring that migrants fleeing in search of food were not turned back. How would such a right for refugees from hunger fit in with the obligations under the International Covenant on Economic, Social and Cultural Rights and with the mandate of the Office of the United Nations High Commissioner for Refugees (UNHCR)?

32. **Mr. Suarez** (Colombia) said that biofuel production, far from endangering food production and agricultural livelihoods in Colombia, had generated considerable agricultural employment and provided an alternative to illegal crops. Biofuel production formed part of the Government's sustainable development and poverty reduction policies. The information in the Special Rapporteur's report should be verified further and the advisability of a moratorium on biofuels analysed fully.

33. **Ms. Matlhako** (South Africa) said that the task of developing international legal norms on refugees from hunger would be challenging and she wondered what it would entail.

34. **Mr. Vigny** (Switzerland), noting that biofuels were an alternative clean source of energy, created jobs, especially in developing countries, and could help resolve trade issues, asked how consistency could be achieved among economic, environmental and human rights policies and what criteria would be used in developing legal norms with regard to the right to food.

35. **Mr. Pak Tok Hun** (Democratic People's Republic of Korea) said that he wished to set the record straight with regard to statements made in the report. With the exception of a few criminals, people caught attempting to cross the border to China to visit relatives or for other reasons were simply given corrective instructions and sent home. They were not subjected to ill-treatment or degrading treatment.

36. **Mr. Alakhder** (Libyan Arab Jamahiriya) praised the Special Rapporteur for focusing on people who were starving, especially in Africa, and asked what could be done about the wealthy countries that burned huge quantities of food in order to raise prices while millions of children in the developing world had nothing to eat. He was also concerned about the negative impact of genetically modified food crops on health.

37. **Mr. Kanaan** (Observer for Palestine) said that the food and health situation in the occupied Palestinian territory, including East Jerusalem, had become catastrophic as a result of the strangulation policies implemented by the Government of Israel. Over 75 per cent of the population of the Gaza Strip were currently dependent on food aid. He asked what the legal implications were for an occupying Power when it denied the occupied people access to food and what responsibility the United Nations and the international community had to guarantee that people's right to food.

38. **Ms. Sutikno** (Indonesia) agreed that all States should ensure that their international economic policies, including trade agreements, did not have an adverse effect on the right to food and that people fleeing from hunger should be adequately protected. Given the complex and often protracted process of developing new international legal instruments, a minimum set of principles should be applied for the time being to ensure such protection.

39. A five-year moratorium was not the best way of addressing the issue of biofuel production. The Special Rapporteur had overlooked a number of important elements. Biofuels were necessary not only because of climate change but also because the steady increase in fossil fuel prices was affecting development efforts. Moreover, biofuel development could be designed in a way that was conducive to poverty eradication, as had been the case in Indonesia. Lastly, fuel-crop cultivation was compatible with food production. Her delegation

encouraged the Special Rapporteur to take those elements into consideration.

40. **Mr. Ke Yousheng** (China), noting that poverty had been considerably reduced in his country, asked what role the Special Rapporteur could play in the current Doha Development Round negotiations.

41. **Ms. Hubert** (Norway), referring to the FAO Voluntary Guidelines on the right to food, aimed at eradicating hunger in the context of the Millennium Development Goals, wondered whether the Guidelines were sufficiently integrated into poverty reduction efforts and, if not, what could be done to enhance their integration.

42. **Mr. Loizaga** (Paraguay) expressed reservations at the Special Rapporteur's recommendations regarding biofuels. Landlocked countries were vulnerable to fluctuations in the price of imported fuels and his Government was implementing a biofuel programme for import-substitution purposes. His delegation therefore did not support the proposal for a moratorium on the production of biofuel crops.

43. **Mr. Guillén** (Peru) suggested that the relationship between indigenous peoples and the right to food and should be examined more closely, because those peoples were largely engaged in agricultural production and directly concerned by environmental conservation.

44. **Mr. Ziegler** (Special Rapporteur on the right to food), replying to the representative of Portugal, said that the most pressing measure was to implement the decisions taken at the Sixth WTO Ministerial Conference, held in Hong Kong in December 2005, at which the industrialized countries had agreed to abolish export subsidies and to refrain from dumping. The Doha Development Round was currently stalled and dumping continued. The French Government, for instance, was refusing to eliminate export subsidies for electoral reasons. As a result, the right to food was being violated. With regard to biofuels, the appropriate course of action for multinationals was to obey the State.

45. Thanking the Government of Cuba for its solidarity, he said that the greatest progress in relation to the right to food was taking place in Latin America. In Brazil, the Landless Workers' Movement had spearheaded civil society activities against biofuel production, which was supported by Brazil's President, one of the movement's founders. Confirming the statement made by the representative of Burkina Faso concerning cotton subsidies, he noted that subsidized United States cotton invaded the world market, ruining the prospects for cotton exports from Mali and Burkina Faso. He congratulated the Government of Burkina Faso for not having signed the trade agreements that the European Union had sought to impose on it and praised the Government of Nigeria for its great strides in food production and for having set an example by achieving food self-sufficiency instead of purchasing food with part of its considerable oil revenues.

46. The measures taken by the Venezuelan Government, in relation to the right to food showed how quickly results could be achieved. Replying to the representative of Colombia, he said that his team had meticulously checked the information used in the report. The Colombian Church had spearheaded courageous opposition to the mass evictions of Colombian peasants carried out by paramilitary organizations in order to provide multinationals with land for bioethanol production. Replying to the representative of South Africa, he said that, under current law, a refugee who entered the European Union in order to escape from hunger did so illegally. International law should provide for the right of such refugees to temporary non-refoulement. Replying to the representative of Switzerland, he pointed out that inconsistency stemmed from contradictory State policies. The same countries that promoted various rights through such agencies as the Food and Agriculture Organization of the United Nations (FAO) and UNICEF were also members of WTO and the International Monetary Fund (IMF), which promoted structural readjustment policies.

47. Noting the comments made by the representative of the Democratic People's Republic of Korea, he said that it would have been simpler if the Government of that country had allowed him to visit in order to observe the situation at first hand. His report stated that thousands of people had been fleeing famine and food shortages in the Democratic People's Republic of Korea by crossing the border illegally into China. He agreed that illegal migration should be curbed. The proposed legal instrument for the protection of refugees from hunger, including provisions on the right of non-refoulement, would provide an appropriate framework for dealing with such situations.

48. Responding to the comment on genetically modified food crops made by the Libyan representative, he said that quite apart from objecting to genetic engineering on the grounds of its possible health risks, he believed that technology and its subsequent copyright protection could create a form of financial dependence that would prevent poor farmers from having access to products that were vital to their food security.

49. He shared the views of the Observer for Palestine concerning the effects of the Israeli occupation and the confinement of the Palestinian population in the Gaza Strip and paid tribute to the courageous efforts of Palestinian and Israeli non-governmental organizations that were working side by side to address Palestinians' needs.

50. Responding to the representatives of Indonesia, China and Norway, he agreed with Indonesia that rising oil prices had had a major impact on a large number of countries, but emphasized that the use of agro- or biofuels was not an appropriate solution. He noted that China had made formidable strides in its development in recent decades, especially in terms of food self-sufficiency. His comments on subsidy prices had been made from the viewpoint of a scholar and there might be others more qualified to pursue that discussion. Commending Norway's contribution to food sovereignty through its international cooperation policy, he said that the FAO Voluntary Guidelines had proved useful to the efforts of various States.

51. Responding to the representative of Paraguay, he agreed that high oil prices had the greatest impact on the poorest populations but noted that agrofuel production had resulted in a drastic increase in prices for wheat, maize and other food staples, thereby exacerbating the plight of the poor. He wished to make a distinction between situational and structural hunger; the latter was attributable to the unaffordability of foodstuffs.

52. In conclusion, he thanked delegations for supporting him during his mandate, which was due to expire shortly, and stressed that his successor should be allowed to exercise his or her mandate freely.

53. **Mr. Mudho** (Independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of all human rights), introducing his report (A/62/212), recalled that the Commission on Human Rights had entrusted him with drafting guidelines for use by States and public, national and international financial institutions in decision-making on and the execution of debt repayments and structural reform programmes, in order to ensure that compliance with foreign debt commitments did not undermine the realization of economic, social and cultural rights as provided for in international human rights instruments. The draft guidelines, which would be considered by the Human Rights Council in December 2007, were based on country visits and exchanges of views with various stakeholders. Most recently, in July 2007, he had held consultations with human rights and other technical experts and with representatives of Member States, international financial institutions, civil society and relevant United Nations agencies.

54. The draft guidelines acknowledged the obligation of States to take steps individually, within their available resources, and jointly, through international assistance and cooperation, aimed at the progressive realization of economic, social and cultural rights. They sought to provide a framework for designing economic reform and debt management policies that respected human rights obligations. They encouraged States to elaborate their own context-specific standards, benchmarks and indicators in order to formulate quantified policy measures that would not undermine minimum human rights standards.

55. On the issue of foreign debt, the guidelines suggested that the current debt sustainability formula used by international financial institutions should be improved in order to take adequate account of the impact of debt service on a country's capacity to fulfil its human rights obligations. Debt relief programmes should provide additional fiscal space to ensure that human rights standards were respected, but should not result in a reduction in international development aid. Creditors and borrowers had a shared responsibility with regard to new loans and debt sustainability and should assess the economic and social impact of debt service obligations before entering into new loan agreements. Both parties should monitor the performance of each loan and be able to review loan conditions. The negotiation and implementation of loan agreements should be transparent and open to public scrutiny, including the participation of civil society and State legislatures. The international community should also agree on common lending principles, especially in cases of potentially unsustainable debt situations. Those principles should include debt relief, debt

swapping and a shift to highly concessional loans and grants, particularly in absorbing external shocks. A debt sustainability analysis framework that was based on human rights principles should be used to estimate the minimum share of development assistance required. Current debt management practices also required some innovations.

56. With regard to economic reform, the draft guidelines called for economic, social and cultural rights impact assessments to be carried out as part of a broader poverty reduction strategy. They also identified several thematic areas of economic reform policy, such as macroeconomic stabilization, trade liberalization, social sector reform, privatization and governance. He noted that macroeconomic stabilization measures could contribute to poverty reduction, but could also undermine efforts to achieve full human rights. For instance, unless social programmes were protected from cuts, the rights of vulnerable groups would suffer.

57. Human rights obligations should play a major role during trade negotiation processes. Any trade liberalization decision should be based on an assessment of its impact on domestic economic sectors, potential government revenue and employment. Where necessary, trade agreements should include adequate aid packages to strengthen domestic competitiveness and provide safety nets. The draft guidelines also recommended that due consideration should be given to the issues of user fees and subsidies in the implementation of social sector reforms, particularly in the health and education sectors. With regard to privatization, they reiterated that States had a responsibility to ensure that adequate legislative and regulatory frameworks and monitoring capacities were in place to ensure that human rights standards were respected by privatized service providers. Lastly, the guidelines emphasized the need for transparent, accountable and participatory governance. An efficient public sector should provide public services that were programmed and budgeted using a rights-based approach.

58. He hoped that discussions on the draft guidelines would continue, regardless of the future of his mandate, since protection gaps in the context of economic management clearly remained, particularly in developing countries, which continued to be influenced by the financial components of international aid.

59. **Mr. Mosoti** (Kenya), welcoming the draft guidelines, asked whether any initiatives had been envisaged to bridge the gap between lip service and real action. The international community had been saying for some time that it wanted to alleviate the hardships of fragile economies, but no real action had been taken. He nevertheless emphasized the positive aspects of economic reform, which his own Government had implemented. In promoting economic reform and modernization, the cultural rights of the population must also be respected.

60. **Ms. González** (Cuba) welcomed the comprehensive focus of the draft guidelines and asked when they would be made available to the Committee. The increased support received by the Human Rights Council resolution pertaining to the independent expert's area of expertise was a reflection of the excellent work that he had done.

61. **Ms. Sutikno** (Indonesia) noted that countries experiencing economic difficulties often found that they did not have sufficient leverage to present their own perspective in economic reform policies. Regrettably, their development partners often took the view that economic difficulties implied that those countries had failed in their development policies and their partners then imposed their own prescriptions in providing financial assistance. Although such action might be justified by numerical indicators, that did not alter the fact that countries themselves had the most first-hand experience and the best understanding of the complexity of their own situation. Economic difficulties should not create mistrust, but should lead to a mutually respectful discussion and partnership.

62. Her delegation was pleased to note that the draft guidelines had been very cautious about making straightforward policy recommendations and had instead sought to identify the key policy issues that had to be considered when analysing the human rights impact of reform measures. Since the success of economic reform often relied on the availability of an enabling international environment, she asked to what extent the draft guidelines had identified the role that development partners and international financial institutions could play in the construction of a development-oriented enabling international environment.

63. **Mr. Mudho** (Independent expert on the effects of economic reform policies and foreign debt on the full

enjoyment of all human rights) said that the draft guidelines stressed the importance of setting benchmarks within a country-specific context precisely in order to promote the idea that economic reform measures should be sensitive to the cultural rights of populations. The guidance on thematic areas was purely generic and its scope should be developed further. Additional elements such as the points raised by the representative of Kenya could be taken into account at a later stage. Responding to the representative of Cuba, he said that, to the best of his knowledge, the draft guidelines had already been issued. He expected that copies would be circulated in the Committee shortly.

64. Responding to the representative of Indonesia, he agreed that the guidelines should be country-specific. Indeed, they acknowledged that it was impossible to find a single formula to fit every situation. He intended to discuss the approach taken by international development partners with respect to developing economies when he met with representatives of the World Bank and IMF in November 2007. At the same time, the international community must recognize the efforts that had been made to link debt relief and poverty reduction and he recalled that the international financial institutions had played an active role in the expert consultations held in July 2007. In conclusion, he looked forward to a more detailed discussion of his work in the Human Rights Council in December 2007 and would welcome further comments from delegations in the meantime.

The meeting rose at 1 p.m.